

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CLAUDE ALLEN PRICE, JR.,

Plaintiff,

V.

SHARON MORGAN, CLIFFORD
JOHNSON, FRANK LONGANO, FRED
NAVARRO, E. LARSEN,

Defendants.

No. C13-5028 RJB/KLS

**ORDER GRANTING EXTENSION OF
DISCOVERY DEADLINE AND
STAYING DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT**

Before the Court is Plaintiff's motion for extension of time to respond to Defendants' motion for summary judgment. ECF No. 23. Plaintiff seeks an extension until January 1, 2014 to allow for the completion of discovery. *Id.* Defendants' motion for summary judgment was filed on July 23, 2013 and noted for August 16, 2013. ECF No. 21. Plaintiff filed a brief and affidavit in opposition, but objected to the motion because discovery has not yet been completed. ECF Nos. 24 and 25. The discovery deadline is September 27, 2013. ECF No. 15.

DISCUSSION

Plaintiff filed his complaint in this action in January 2013. ECF No. 5. Defendants filed their answer on March 18, 2013. ECF No. 14. On April 21, 2013, Plaintiff served Defendants with a request for production of documents. Defendants provided their response on July 10, 2013. ECF No. 23. Eleven days later, Defendants filed their motion for summary judgment. ECF No. 21. Pursuant to the Court's Pretrial Scheduling Order, the discovery deadline does not expire until September 27, 2013. ECF No. 15. In his sworn motion, Plaintiff states that there are

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1 documents missing from the discovery he received from Defendants and that he requires time to
2 address this issue with Defendants' counsel. He also states that he wishes to send
3 interrogatories, requests for admission, and obtain additional affidavits from other inmates. ECF
4 No. 23.

5 Under Rule 56(d), if a nonmovant shows by affidavit or declaration that, for specified
6 reasons, it cannot present facts essential to justify its opposition, the court may defer considering
7 the motion or deny it, allow time to obtain affidavits or declarations or to take discovery, or issue
8 any other appropriate order. A motion for continuance under Rule 56(d) (formerly 56(f)) must
9 show how additional discovery would preclude summary judgment and why the party cannot
10 immediately provide "specific facts" demonstrating a genuine issue of material fact." *United*
11 *States v. One 1985 Mercedes*, 917 F.2d 415, 418 (9th Cir.1990) (*quoting Mackey v. Pioneer Nat'l*
12 *Bank*, 867 F.2d 520, 524 (9th Cir.1989)).

14 The primary purpose of the rule is to ensure that parties have a reasonable opportunity to
15 prepare their case and to ensure against a premature grant of summary judgment. *Price v.*
16 *General Motors Corp.*, 931 F.2d 162, 164 (1st Cir.1991) (*citing to* 10A WRIGHT, MILLER &
17 KANE, FEDERAL PRACTICE & PROCEDURE § 2740 (1983)) (*citing to* former Rule 56(f).

19 Based on the foregoing, the Court will defer consideration of the Defendants' motion for
20 summary judgment (ECF No. 21) until the completion of discovery. In addition, the Court finds
21 that a short extension of the existing discovery deadline is warranted and will not prejudice the
22 parties.

24 Accordingly, it is **ORDERED**:

25 (1) The discovery deadline shall be extended to **November 25, 2013**.
26 (2) The dispositive motions deadline shall be extended to **January 24, 2014**.
Consideration of Defendants' motion for summary judgment (ECF No. 21) shall

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be **STAYED** pending completion of discovery. The Clerk shall **strike** the existing noting date and Defendants may re-note their motion after January 24, 2014.

(3) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.

DATED this 20th day of August, 2013.

Karen L. Strombom
Karen L. Strombom
United States Magistrate Judge